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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,837	08/04/2003	Christian Muehlbauer	R 303625	5055

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EXAMINER

ZANELLI, MICHAEL J

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,837

Applicant(s)

MUEHLBAUER, CHRISTIAN

Examiner

Michael J. Zanelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The application filed 8/4/03 has been examined. Claims 1-6 are pending.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
3. The drawings are objected to because the blocks shown in Figs. 1-5 must contain suitable legends.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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A. As per claim 4, the claim is indefinite because of the use of the alternative "and/or". The examiner suggests using the phrase --at least one of ... and ...--.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kozak (6,415,226) in view of applicant's admission of known prior art.

A. As per claims 1 and 2, Kozak discloses controlling various vehicle safety systems, such as vehicle speed control, taking into consideration the type of road upon which the vehicle is traveling. The type of road information is provided by a navigation system and used by the vehicle speed control system to maintain/limit a set/resume speed (col. 3, lines 49-62; col. 8, line 60 to col. 9, line13). Kozak discloses the control method relative to an adaptive cruise control system, but does not set forth the specific details of the system such as storing a desired speed in a memory for the purpose of resuming speed control after deactivation. However, one of ordinary skill

in the art would have recognized that a typical cruise control system would have inherently included a resume function for resuming a set speed after temporarily deactivating the speed control. Alternatively, applicant admits on page 1 that "It is already known that the last desired speed remains stored when a road speed control of a vehicle ... is deactivated during travel". Since Kozak discloses maintaining/limiting resume speed control, one of ordinary skill in the art would have found it obvious to include storing a set/desired speed in order to perform the resume function.

8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozak as applied to claim 1 above, and further in view of Vieweg (6,067,501) and Hayashi et al. (4,519,469).

A. As per claims 3 and 4, Kozak discloses obtaining the type of road directly from stored map data in the navigation system. Kozak also discloses that road curvature data may be also stored (see col. 3, lines 49-62), but does not explicitly state that the curvature data is used to determine road type as claimed.

B. Vieweg teaches that one may alternatively distinguish road type based on the curvature of the road (see col. 2, line 56 to col. 3, line 1; col. 3, lines 52-58). Thus, one of ordinary skill in the art would have found it obvious to utilize road curvature as an alternative means of providing the road type information required by Kozak.

C. With regards to claim 4, it was well-known in the vehicle control art to determine road curvature by using at least a steering angle sensor (see Hayashi: col. 3, lines 50-55). One of ordinary skill in the art would have found it obvious to utilize

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known devices for detecting road curvature in order to produce the necessary data required to determine road type as taught by Vieweg.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kozak as applied to claim 1 above, and further in view of Richardson et al. (6,745,110).

A. As per claim 5, Kozak is applied as above whereby the type of road is determined directly from stored map data. Claim 5 differs in that the road type is determined based on actual driving speed. However, at the time of applicant's invention it was known in the art to alternatively determine road type from the vehicle's road speed. For example, Richardson discloses determining the type of road by comparing the vehicle's speed to stored road speed data related to different types of roads (see col. 2, lines 13-21). One of ordinary skill in the art would have found it obvious to utilize the teachings of Richardson to provide an alternative means of providing the road type information required by Kozak.

10. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As per claim 6, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, determining the type of road based on a maximum driving speed reached since at least a pregiven time after deactivation of speed control.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of general interest.

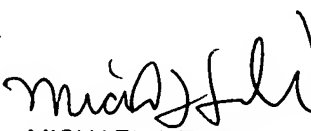
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756. The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz


MICHAEL J. ZANELLI
PRIMARY EXAMINER